

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6995 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

PRAGNABEN M JOSHI

Versus

MANAGING TRUSTEE

Appearance:

MR ASIM J PANDYA for Petitioner

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 03/10/97

ORAL JUDGEMENT

In view of the fact that the controversy involved in this petition is short and is concluded by a number of decisions, by order dated 24.9.1997, this Court issued notice as to why this Special Civil Application is not admitted and allowed. In spite of the fact that the notice has been served and an affidavit to that effect has been filed, the respondents have not chosen to appear.

2. By way of this petition under Article 226 of the Constitution, the petitioner seeks direction to calculate the differential amount of Dearness Allowance considering the petitioner to be a trained teacher and to pay the said amount within one month with interest @ 18% from the date of Award. A further direction has been sought against the respondent No.1 to pay the differential amount of dearness allowance to the petitioner for the period from 1972 to 1986 which was not granted by the Tribunal on the ground of lack of jurisdiction with appropriate rate of interest.

3. The petitioner is B.A.B.Ed and also a trained teacher. In view of this, the petitioner cannot be treated as untrained teacher. She, is therefore, entitled to Dearness Allowance considering her to be trained teacher. Reference may be made to the decision of this Court reported in 1984(1)GLR page 655 and on an unreported decision of this Court in Special Civil Application No.2903/88 decided on 6.2.1996.

4. In view of the aforesaid, this Special Civil Application is allowed. Respondent No.1 is directed to calculate the differential amount of Dearness Allowance considering the petitioner to be a trained teacher. The petitioner will also be entitled to a cost of Rs.2,000/- payable by the respondent.

Rule is made absolute accordingly.

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msp.